

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No.
)	16-00363-02-CR-W-BCW
TYLER PHILLIPS,)	
)	
Defendant.)	

REPORT AND RECOMMENDATION

On September 13, 2017, counsel for defendant filed a motion pursuant to 18 U.S.C. § 4241 for a determination of the mental competency of the defendant to stand trial. That motion was granted and, prior to holding a hearing to determine the mental competency of the defendant, the Court entered its Order pursuant to 18 U.S.C. § 4241(b) directing that a psychological or psychiatric examination of the defendant be conducted and that a psychological or psychiatric report be filed with the Court pursuant to 18 U.S.C. §§ 4247(b) and (c).

On December 19, 2017, the undersigned issued a Report and Recommendation finding defendant incompetent to understand the nature and consequences of the proceeding against him and to assist properly in his defense and recommending the Court enter an order committing defendant Tyler Phillips to the custody of the Attorney General for hospitalization and treatment in a suitable facility for a reasonable time up to 120 days to determine whether there is a substantial probability that in the foreseeable future, the defendant will attain the capacity to permit the trial to proceed once the Report and Recommendation is ruled on by Judge Wimes.

On January 23, 2018, Judge Wimes adopted the Report and Recommendation and the defendant was committed to the custody of the Attorney General pursuant to 18 U.S.C. § 4241(d)(1). Defendant was hospitalized for treatment to determine whether there is a substantial probability the defendant will attain the capacity to permit the trial to proceed.

On June 22, 2018 a forensic evaluation was issued by Dr. R. Koch which concluded that the defendant is competent to understand the nature and consequence of the proceedings against him and to assist properly in his defense. This report has been provided to and reviewed by counsel for the government and counsel for the defendant. On August 29, 2018, a hearing was held pursuant to 18 U.S.C. § 4247(d) for the purpose of determining the mental competency of the defendant to stand trial. At this hearing, counsel for the government and counsel for the defendant stipulated that the Court could consider the psychological or psychiatric report of Dr. Koch as if Dr. Koch had appeared in person and testified under oath. No additional evidence was offered by the government or by the defendant.

Based on the record before the Court and the findings of Dr. Koch, it is

RECOMMENDED that the District Court, after conducting its own independent review of the record, find that defendant Phillips competence is restored and defendant is competent to understand the nature and consequence of the proceedings against him and to assist properly in his defense.

Counsel are reminded that each has 14 days from the date of receipt of a copy of this Report and Recommendation to file and serve specific objections to the same. A failure to file and serve timely objections shall bar attack on appeal of the factual findings in this Report which

are accepted or adopted by the District Judge except upon the ground of plain error or manifest injustice.

/s/ JOHN T. MAUGHMER

JOHN T. MAUGHMER
United States Magistrate Judge

Kansas City, Missouri